

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRON HEREFORD,

Petitioner,

Case No. 04-cv-40293

v.

HONORABLE STEPHEN J. MURPHY, III

MILLICENT WARREN,

Respondent.

**ORDER ACCEPTING AND ADOPTING REPORT
AND RECOMMENDATION (docket no. 63), DENYING PETITION,
AND DECLINING TO ISSUE A CERTIFICATION OF APPEALABILITY**

This is a habeas action. Habeas relief was initially granted on one of Petitioner's Sixth Amendment claims, but the Sixth Circuit reversed that order and remanded for consideration of Petitioner's second Sixth Amendment claim. The matter comes before the Court on the report and recommendation of Magistrate Judge R. Steven Whalen. Docket no. 63. Judge Whalen recommends in his report that the Court deny relief on the second Sixth Amendment claim because the claim lacks merit. Judge Whalen also recommends that the Court decline to issue a certificate of appealability on this issue.

A federal District Court's standard of review for a magistrate judge's report and recommendation depends on whether any party files objections. With respect to portions of a report that no party objects to, the Court need not undertake any review at all. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). Further, the failure to file specific objections to a report constitutes a waiver of any further right of appeal from the district judge's decision. See *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981).

The last section of the report and recommendation notified all parties that any objections were to be filed within fourteen days of service of a copy of the report, as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). See *Walters*, 638 F.2d at 950 (“we hold that a party shall be informed by the magistrate that objections must be filed within ten days or further appeal is waived.”)

No objections have been filed and the time for filing them has passed, so the Court need not conduct any review. Additionally, by not filing objections, Petitioner has waived his right to appeal the Court's order. See *Walters*, 638 F.2d at 950. Accordingly, the Court will adopt the report and recommendation as the opinion of the Court and deny the petition. The Court will also decline to issue a certificate of appealability for the reasons stated in the report and recommendation.

WHEREFORE, it is hereby **ORDERED** that Magistrate Judge Whalen's report and recommendation (docket no. 63) is **ACCEPTED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that the petition for a writ of habeas corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court **DECLINES** to issue a certificate of appealability.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: October 26, 2010

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 26, 2010, by electronic and/or ordinary mail.

Alissa Greer
Case Manager